Remarks/Arguments

Claims 21, 25-28, and 33-35 are pending. Claims 21, 25, and 28 have been amended. Reconsideration of this application in light of the foregoing amendments and the following remarks is requested.

Time period for reply

The Advisory Action states that the period for reply expired three months from the date of mailing of the Final Office Action. Applicant submits that the expiration of the time period for reply was improperly calculated for the following reason.

MPEP § 706.07(f) (D) states that

> Where the final Office action sets a variable reply period as set forth in paragraph (A) above AND applicant files a complete first reply to the final Office action within 2 months of the date of the final Office action, the examiner must determine if the reply:
>
> …
>
> (3) does not place the application in condition for allowance - then the advisory action should inform applicant that the SSP for reply expires 3 months from the date of the final rejection or as of the mailing date of the advisory action, whichever is later, by checking the appropriate box at the top portion of the Advisory Action form, PTOL-303.

(emphasis added)

In the present case, the Final Office Action was mailed on March 22, 2004, and Applicant filed a Response on May 24, 2004. As May 22, 2004, was a Saturday, Applicant was allowed to file a timely Response on Monday, May 26. (MPEP § 710.05). Accordingly, Applicant responded within the two month time frame established by MPEP § 706.07(f). As the Advisory Action was mailed on July 9, 2004, Applicant gains the benefit of the later mailing date of the Advisory Action. Accordingly, Applicant submits that a one month extension for the present response is correct.

Rejections under 35 U.S.C. § 102

Claims 21, 28, and 35 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,480,860 to Monday ("Monday"). Applicant submits that this reference does not anticipate the subject matter of these claims under 35 U.S.C. § 102(e). The PTO provides in MPEP § 2131 that, "[t]o anticipate a claim, the reference must teach every element of the claim."

Claim 21

Claim 21, as amended, recites in part determining whether the service is accessible to the system and loaded, dynamically loading the service if referenced, accessible, and not loaded, and defaulting the object to a document object model during instantiation in the class factory if the service is not accessible. The added elements of claim 21 are similar to those of now-canceled dependent claims 22-24.

Regarding these elements, the Examiner has cited column 7, lines 21-67, of Monday. However, a reading of the cited passages, as well as the whole of Monday, clearly indicates that Monday does not contemplate the situation wherein a determination is made as to whether a service is accessible to the system and loaded. Furthermore, Monday fails to teach or suggest defaulting an object to a document object model during instantiation in a class factory if the service is not accessible to the system. Accordingly, even if the DTD creation and database access features of Monday are viewed as a system service for purposes of argument (an assertion which Applicant has repeatedly traversed), then Monday still fails to teach every element of the claim as required by MPEP § 2131. For at least this reason, claim 21 is deemed allowable.

Claims 25-27 depend from and further limit claim 21 are therefore allowable for at least the reasons discussed above.

Claim 28

Claim 28, as amended, includes elements similar to those discussed above with respect to claim 21. Accordingly, claim 28 is also allowable. Claims 33 and 34 depend from and further limit claim 28 and should likewise be allowable.
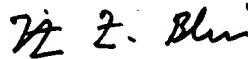
Claim 35

Monday is also used by the Examiner to reject claim 35. The Examiner states in regards to claim 35 that it was rejected under the same rationale as claim 1. Since claim 1 was canceled in a previous amendment, the Applicant presumes the Examiner to mean claim 21. Assuming so, as Applicant has repeatedly stated, the Examiner has failed to show a teaching, or even a suggestion, of each element of claim 35. For example, claim 35 requires, "determining whether the object references a system service; if the service is referenced and not loaded, dynamically loading the service." Assuming, *arguendo*, that the Examiner's other claim rejections are correct, which Applicant contends they are not, Monday still does not contemplate dynamic loading of system services. For this reason, at least, claim 35 should be allowable.

Conclusion

As the Examiner's rejections have all been addressed, all pending claims should now be in condition for allowance. Notice of allowance of claims 21, 25-28, and 33-35 is requested. Should the Examiner feel that any further action is necessary to place this application in condition for allowance, he is invited to contact the undersigned.

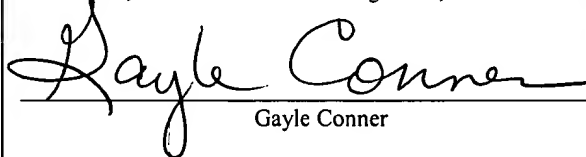Respectfully submitted,

7t. 7. Bliss

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> This paper and fee are being deposited with the U.S. Postal Service as Express Mail No. EV334578811US to Addressee service under 37 CFR §1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 10, 2004.
>
> *Gayle Conner*
> _____
> Gayle Conner